



1 dangerousness. . . ." Hayward, 603 F.3d at 561. The  
2 Hayward Court suggested that a federal Due Process liberty  
3 interest might arise when state law establishes such a  
4 requirement. Id. Ultimately, however, the Hayward Court  
5 stated that it did not need to decide whether a federal Due  
6 Process liberty interest arises because of California law's  
7 requirement that parole be granted in the absence of "some  
8 evidence" of future dangerousness. Id. at 562-63. The  
9 Hayward Court stated that it did not need to decide this  
10 issue given the fact that California's "some evidence"  
11 requirement is "exactly the same" as the requirement  
12 previously applied in pre-Hayward Ninth Circuit case law.  
13 Id. at 562-63 (citing Lawrence and Shaputis). Therefore,  
14 in a habeas case challenging a finding of parole  
15 unsuitability in California, the federal district court  
16 "need only decide whether the California judicial decision  
17 [upholding the finding] was an 'unreasonable application'  
18 of the California 'some evidence' requirement, or was  
19 'based on an unreasonable determination of the facts in  
20 light of the evidence.'" Id. (citing 28 U.S.C. §§  
21 2254(d)(1), (2)); but cf. Cooke v. Solis, \_\_\_ F.3d \_\_\_,  
22 2010 WL 2330283, at \*6 (9th Cir. June 4, 2010) (appearing  
23 to state that California's "some evidence" standard creates  
24 a "federally enforceable liberty interest") ("Cooke");  
25 Pearson v. Muntz, 606 F.3d 606, 2010 WL 2108964, at \*2 (9th  
26 Cir. 2010) ("Pearson") ("By holding that a federal habeas  
27 court may review the reasonableness of the state court's  
28 application of the California 'some evidence' rule, Hayward

1 necessarily held that compliance with the state requirement  
2 is mandated by federal law, specifically the Due Process  
3 Clause").  
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5 IT IS ORDERED that Judgment be entered denying and dismissing  
6 the Petition with prejudice.  
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8 IT IS FURTHER ORDERED that the Clerk serve copies of this Order,  
9 the Magistrate Judge's Report and Recommendation and the Judgment  
10 herein by United States mail on Petitioner and counsel for  
11 Respondent.  
12

13 LET JUDGMENT BE ENTERED ACCORDINGLY.  
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15 DATED: July 8, 2010.  
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18 JACQUELINE H. NGUYEN  
19 UNITED STATES DISTRICT JUDGE  
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